

REMARKS

Upon entry of the foregoing amendment, claims 65, 80, 81, 83, 88, 94, 95, 101, 102, and 116-118 are pending for the Examiner's consideration, with claims 65, 80, 94, 116, and 117 being the independent claims. Claims 65, 80, 88, 94, and 116-117 are amended herein.

Applicants respectfully submit that these amendments introduce no new matter. In this regard, the Examiner is referred, for example, to page 10, lines 3-10, and pages 20-23 of the application as originally filed. Claims 1-64, 66-79, 82, 84-87, 89-93, 96-100, and 103-115 are cancelled without prejudice to or disclaimer of the subject matter contained therein. Applicants respectfully submit that the present amendment, in conjunction with the following remarks, places all claims in condition for allowance, or alternatively, in better form for appeal. Accordingly, applicants respectfully request entry and consideration of the present amendment and remarks.

Applicants note that the Examiner has indicated the allowability of dependent claims 79 and 87, which are specifically directed to an active agent selected from the group consisting of risperidone, 9-hydroxyrisperidone, and pharmaceutically acceptable salts of the foregoing. The present amendment cancels claims 79 and 87, and amends independent claims 65 and 80 from which they respectively depend to include the foregoing limitation regarding the active agent. Accordingly, Applicants respectfully submit that independent claims 65 and 80, and the claims depending therefrom, contain allowable subject matter. In addition, the present amendment similarly amends independent claims 94, 116, and 117 to recite an active agent selected from the group consisting of risperidone, 9-hydroxyrisperidone, and pharmaceutically acceptable salts of the foregoing. Because all independent claims now recite an active agent selected from the group consisting of risperidone, 9-hydroxyrisperidone, and pharmaceutically acceptable salts of the foregoing, a conditioning time period of at least about five days, and a conditioning temperature of about 25°C, Applicants respectfully submit that all claims are now in condition for allowance.

Rejection Under 35 U.S.C. § 112 ¶ 1

The Examiner has rejected claims 65, 75-78, 80-81, 83, 86, 88, 94-95, 99, 101-102, and 116-118 under 35 U.S.C. § 112 ¶ 1 as allegedly not being enabled. All of the independent

claims have been amended herein, thereby rendering this rejection moot. As noted on page 2 of the Final Office Action, the Examiner considers the specification of the present application to be enabling for flowability of microparticles containing risperidone by conditioning the microparticles at a temperature of about 25 degrees Celsius for a period of about five days. Moreover, allowable claims 79 and 87 are specifically directed to risperidone as the active agent, and depend from independent claims that recite a period of at least five days and a temperature of 25°C. All of the independent claims have been amended herein to recite an active agent selected from the group consisting of risperidone, 9-hydroxyrisperidone, and pharmaceutically acceptable salts of the foregoing, a conditioning time period of at least about five days, and a conditioning temperature of about 25°C. Based on the Examiner's reasoning in the Final Office Action, all of the independent claims, as well as the more narrow claims depending therefrom, are fully enabled by the specification, and, therefore, allowable.

Applicants have amended the independent claims solely to advance prosecution of the present application, which prosecution has been substantially delayed by the U.S. Patent and Trademark Office. Applicants respectfully submit that the claims as originally filed in the present application are fully enabled by the specification, and respectfully disagree with the position taken by the Examiner. The amendment presented herein should not be construed as an acquiescence on the part of the Applicants to the propriety of the Examiner's rejection under 35 U.S.C. § 112 ¶ 1, and Applicants explicitly reserve the right to file a continuing application to pursue claims drawn to the originally presented subject matter.

CONCLUSION

Applicants respectfully submit that the foregoing remarks demonstrate that entry of these amendments places the present application in condition for allowance, or alternatively, in better form for consideration on appeal. All of the stated grounds of objection and rejection have been properly traversed, accommodated, or rendered moot. Applicants therefore respectfully request that the Examiner reconsider all presently outstanding objections and rejections and that they be withdrawn. It is believed that a full and complete response has been made to the outstanding Office Action and, as such, the present application is in condition for allowance. If the Examiner believes, for any reason, that personal communication will expedite

prosecution of this application, the Examiner is invited to telephone the undersigned at the number provided.

In view of the above, each of the presently pending claims in this application is believed to be in immediate condition for allowance. Accordingly, the Examiner is respectfully requested to pass this application to issue.

Dated: February 27, 2007

Respectfully submitted,

By

Andrea G. Reister

Registration No. 36,253
COVINGTON & BURLING LLP
1201 Pennsylvania Avenue, N.W.
Washington, DC 20004-2401
(202) 662-6000
Attorney for Applicant

